

1 GERARD G. PECHT (*PRO HAC VICE*)  
2 gerard.pecht@nortonrosefulbright.com  
3 NORTON ROSE FULBRIGHT US LLP  
4 1301 McKinney, Suite 5100  
5 Houston, Texas 77010  
6 Telephone: (713) 651-5151  
7 Facsimile: (713) 651-5246

5 JOSHUA D. LICHTMAN (SBN 176143)  
joshua.lichtman@nortonrosefulbright.com  
6 **NORTON ROSE FULBRIGHT US LLP**  
555 South Flower Street, Forty-First Floor  
7 Los Angeles, California 90071  
Telephone: (213) 892-9200  
8 Facsimile: (213) 892-9494

9 Attorneys for Dismissed Defendant  
10 AMERICAN CONTRACTORS  
INDEMNITY COMPANY

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

15 IN RE CALIFORNIA BAIL BOND  
16 ANTITRUST LITIGATION

18 || THIS DOCUMENT RELATES TO:

## ALL ACTIONS

Master Docket No. 19-cv-00717-JST

## CLASS ACTION

**Response to Plaintiffs' Administrative Motion to Supplement the August 12, 2021 Letter Brief and to Seal Material Designated as Confidential by an Opposing Party**

1           The Select Dismissed Defendants (“SDDs”), who are signatories below, oppose Plaintiffs’  
 2 Administrative Motion (ECF No. 226) seeking the filing of document labeled ACIC\_000011890  
 3 under seal for the Court’s consideration at the forthcoming hearing on the parties’ pending  
 4 discovery dispute. Plaintiffs’ eleventh-hour attempt to misleadingly portray one email thread,  
 5 produced by one SDD, out of thousands of documents that have been produced by the SDDs as  
 6 purportedly reflecting a global issue is inaccurate, improper, and prejudicial. For the following  
 7 reasons, Plaintiffs’ request should be denied.

9           ***First***, Plaintiffs’ purported concern for “risks attendant to Defendants’ highly subjective  
 10 criteria” based on one particular document is not indicative of the SDDs’ more global approach to  
 11 discovery. The issue before the Court at the September 30, 2021 discovery conference is whether  
 12 the SDDs should be compelled to produce documents even if they relate *solely to activity in states*  
 13 *other than California*. ECF 208. The SDDs have never taken a position that a document is  
 14 relevant only if it expressly mentions California. The SDDs have not withheld any documents on  
 15 geographic scope that disclose relevant information responsive to the California bail bond market.  
 16 To be clear, except for certain redactions made by ACIC on the basis of objecting to producing  
 17 non-California bail information, no other SDD applied redactions on those grounds. And more  
 18 important, no SDD, including ACIC, withheld documents in which there may be mixed  
 19 discussions of the California bail market and non-California bail markets.  
 20

21           At bottom, disputes regarding one-off document production issues or questions are  
 22 expected in discovery. The producing party and Plaintiffs have engaged in good faith meet and  
 23 confers since Plaintiffs raised a question about the redactions on September 24, 2021. Plaintiffs  
 24 are improperly attempting, however, to use this one discovery dispute related to one SDD, and  
 25 one document, to imply that the SDDs’ entire discovery process has been improper. Plaintiffs’  
 26 misleading efforts to conflate the decisions of one SDD with the entire defense group should not  
 27 28

1 be credited. Therefore, this document in and of itself should not be used at this late stage to raise  
2 concerns about “subjectivity” of the SDDs’ discovery process and certainly should not be used to  
3 suggest that information related solely to the non-California bail market is relevant and should be  
4 produced by all the SDDs.

5 **Second**, the SDDs dispute that the document Plaintiffs seek to submit under seal has any  
6 relevance to the issues before the Court on September 30, 2021. The pending dispute is whether  
7 documents that relate solely to non-California markets must be produced during the “tailored”  
8 post-dismissal discovery period in a case alleging price-fixing exclusively within the California  
9 market. The document ACIC\_000011890 discloses discussion related to the California bail  
10 market, which the SDDs agree is relevant to Judge Tigar’s Order and is information the SDDs  
11 have agreed to produce. To the extent Plaintiffs raise concern about the redactions in one email  
12 thread produced among thousands by one SDD, again, this is an issue specific to one producing  
13 party that is expected to be resolved. Plaintiffs’ brash attempt to tie this document to the pending  
14 discovery dispute is unsubstantiated and irrelevant to the issues the Court will decide. The  
15 document does not otherwise evidence the behavior Plaintiffs suggest it does, but putting aside  
16 the merits of whatever argument Plaintiffs may intend to make, which is not before the Court, the  
17 document critically cannot be construed as representing “the kind of information that the SDDs  
18 are withholding from their document productions.”

19 **Third**, Plaintiffs’ attempt to submit this document to the Court on the eve of the hearing  
20 unfairly prejudices the SDDs and does not provide a reasonable opportunity for the SDDs to  
21 appropriately respond to Plaintiffs’ positions. Plaintiffs have had this document for weeks, but  
22 did not raise their intent to file it with the Court until last night. Although the producing party  
23 became aware of Plaintiffs’ concerns with the document less than a week ago on September 24,  
24 2021. Plaintiffs did not raise this issue with the other SDDs until last night when they invited  
25  
26  
27  
28

1 SDDs to join their unilateral phone call to the Court. And despite repeated attempts to understand  
2 why the document needed to be submitted to the Court, the SDDs, including the producing party,  
3 did not get a cogent explanation of Plaintiffs' position prior to the filing of Plaintiffs' motion.  
4 Therefore, there have been no good faith efforts to meet and confer at a global level on the  
5 propriety of Plaintiffs' submission of the document to the Court.  
6

7 For the foregoing reasons, the SDDs respectfully request that Plaintiffs' request to file  
8 document ACIC\_000011890 under seal and supplement its letter brief should be denied.  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 Dated: September 29, 2021

Respectfully submitted,

2 By: /s/ Gerard G. Pecht

3  
4 Gerard G. Pecht (*pro hac vice*)  
5 NORTON ROSE FULBRIGHT US LLP  
6 1301 McKinney, Suite 5100  
7 Houston, Texas 77010  
8 Telephone: (713) 651-5151  
9 Facsimile: (713) 651-5246  
10 gerard.pecht@nortonrosefulbright.com

11  
12 Joshua D. Lichtman (SBN 176143)  
13 NORTON ROSE FULBRIGHT US LLP  
14 555 South Flower Street, Forty-First Floor  
15 Los Angeles, California 90071  
16 Telephone: (213) 892-9200  
17 Facsimile: (213) 892-9494  
18 joshua.lichtman@nortonrosefulbright.com

19  
20 *Attorneys for American Contractors Indemnity*  
21 *Company*

22 Dated: September 29, 2021

23 By: /s/ Beatriz Mejia  
24 Beatriz Mejia (190948)

25 COOLEY LLP  
26 MICHAEL A. ATTANASIO (151529)  
27 BEATRIZ MEJIA (190948)  
28 TIMOTHY W. COOK (*PRO HAC VICE*)  
MAX SLADEK DE LA CAL (324961)

29  
30 *Attorneys for Seaview Insurance Company and*  
31 *Two Jinn, Inc.*

1 Dated: September 29, 2021

2 By: /s/ Julie A. Gryce

3 Julie A. Gryce (319530)  
4 DLA Piper LLP (US)  
5 401 B Street, Suite 1700  
6 San Diego, CA 92101-4297  
7 Telephone: (619) 699-2700  
8 Facsimile: (619) 699-2701  
9 julie.gryce@dlapiper.com

10 Michael P. Murphy (*pro hac vice*)  
11 DLA PIPER LLP (US)  
12 1251 Avenue of the Americas  
13 New York, NY 10020-1104  
14 Telephone: (212) 335-4500  
15 Facsimile: (212) 335-4501  
16 michael.murphy@dlapiper.com

17 John Hamill  
18 DLA Piper LLP (US)  
19 444 West Lake Street, Suite 900  
20 Chicago, IL 60606-0089  
21 Telephone: 312.368.7036  
22 Facsimile: 312.251.5809  
23 John.hamill@us.dlapiper.com

24 *Attorneys for Danielson National Insurance*  
25 *Company*

26 Dated: September 29, 2021

27 By: /s/ Anne K. Edwards

28 Anne K. Edwards (110424)  
29 SMITH, GAMBRELL & RUSSELL, LLP  
30 444 South Flower Street, Suite 1700  
31 Los Angeles, CA 90071  
32 Telephone: (213) 358-7210  
33 Facsimile: (213) 358-7310  
34 aedwards@sgrlaw.com

35 *Attorneys for Williamsburg National*  
36 *Insurance Company*

1 Dated: September 29, 2021

By: /s/ Enrique Martinez

2 Enrique Martinez  
3 Todd A. Roberts  
4 ROPERS, MAJESKI, KOHN & BENTLEY

5 *Attorneys for American Bail Coalition, Inc.*  
6 and *William B. Carmichael*

7 Dated: September 29, 2021

8 By: /s/ David F. Hauge

9 David F. Hauge (128294)  
10 Todd H. Stitt (179694)  
11 Vincent S. Loh (238410)  
12 MICHELMAN & ROBINSON, LLP

13 *Attorneys for United States Fire Insurance*  
14 *Company, The North River Insurance*  
15 *Company, and Seneca Insurance Company*

16 Dated: September 29, 2021

17 By: /s/ Christie A. Moore

18 Christie A. Moore (*pro hac vice*)  
19 W. Scott Croft (*pro hac vice*)  
20 DENTONS BINGHAM GREENEBAUM LLP  
21 101 S. Fifth Street  
22 3500 PNC Tower  
23 Louisville, KY 40202  
24 Telephone: 502.587.3758  
25 Facsimile: 502.540.2276  
26 cmoore@bgdlegal.com  
27 wcroft@bgdlegal.com

28 *Attorneys for Lexon Insurance Company*

29 Dated: September 29, 2021

30 By: /s/ Travis Wall

31 Travis Wall (191662)  
32 Spencer Kook (205304)  
33 HINSHAW & CULBERTSON LLP  
34 One California Street, 18<sup>th</sup> Floor  
35 San Francisco, CA 94111  
36 Tel: (415) 362-6000  
37 twall@hinshawlaw.com

38 *Attorneys for Philadelphia Reinsurance*  
39 *Corporation*

1 Dated: September 29, 2021

2 By: /s/ Gregory S. Day

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Gregory S. Day  
LAW OFFICES OF GREGORY S. DAY  
120 Birmingham Drive, Suite 200  
Cardiff, CA 92007  
Telephone: (760) 436-2827  
attygsd@gmail.com

Attorneys for California Bail Agents  
Association, Universal Fire & Insurance  
Company, Sun Surety Insurance Company

Dated: September 29, 2021

By: /s/ Howard Holderness

John A. Sebastianelli (127859)  
Howard Holderness (169814)  
GREENBERG TRAURIG, LLP  
4 Embarcadero Ctr, Ste. 3000  
San Francisco, CA 94111-5983  
Telephone: (415) 655-1289  
Facsimile: (415) 358-4796  
sebastianellij@gtlaw.com  
holdernessh@gtlaw.com

Attorneys for American Surety Company and  
Indiana Lumbermens Mutual Insurance  
Company

Dated: September 29, 2021

By: /s/ Gary A. Nye

Gary A. Nye (126104)  
ROXBOROUGH, POMERANCE, NYE & ADREANI,  
LLP

Attorneys for Allegheny Casualty Company,  
AIA Holdings, Inc., Bankers Insurance  
Company, International Fidelity Insurance  
Company, Lexington National Insurance  
Corporation, and Jerry Watson

1 Dated: September 29, 2021

2 By: /s/ Brendan Pegg

3 Brendan Pegg (174159)  
4 LAW OFFICES OF BRENDAN PEGG  
5 201 E. Ojai Avenue #1505  
6 Ojai, CA93024  
7 Telephone: (805) 3024151  
8 Facsimile: (877) 719-7298  
brendan@bpegglaw.com

9  
10 *Attorneys for Financial Casualty & Surety,*  
11 *Inc.*

12 Dated: September 29, 2021

13 By: /s/ Paul J. Riehle

14 Paul J. Riehle (115199)  
15 FAEGRE DRINKER BIDDLE & REATH  
16 LLP  
17 4 Embarcadero Center, 27th Floor  
18 San Francisco, California 94111  
19 Telephone: (415) 551-7521  
20 Facsimile: (415) 551-7510  
paul.riehle@faegredrinker.com

21 *Attorneys for Accredited Surety*  
22 *and Casualty Company, Inc.*  
23 By: /s/ Erik K. Swanholt

24 Erik K. Swanholt  
25 FOLEY & LARDNER  
26 555 South Flower St., 33rd Floor  
27 Los Angeles, CA 90071  
28 Telephone: (213) 972-4500  
Facsimile: (213) 486-0065

29 *Attorneys for Continental*  
30 *Heritage Insurance Company*